

Second Set - FINDING OF EMERGENCY

These regulations are being adopted on an emergency basis for the immediate preservation of the public peace, health and safety, and general welfare, within the meaning of Government Code Section 11346.1(b).

DESCRIPTION OF THE FACTS WHICH CONSTITUTE THE EMERGENCY

Low wages for direct care staff have led to difficulties in recruiting and retaining direct care staff who provide critically needed services to developmentally disabled consumers. The wage and benefit increase granted by the legislature in the 2000-01 Budget Act will decrease the movement of workers out of the respite care industry to other easier jobs. This increase needs to be passed on to these workers as soon as possible in order to stem this flow. Therefore, this filing needs to be approved on an emergency basis.

There are approximately 27,090 family members of consumers who procure respite services utilizing a voucher issued by the regional center. Under the voucher service, the regional center reimburses the vouchered family member who, in turn, has responsibility for the selection, supervision, and level of payment of the individual worker. The family member may select an individual, agency, or a facility when out-of-home respite is required. The family member has the flexibility to hire an individual, or individuals, at a lower rate of pay in order to increase the number of respite hours available to them, or the family member may reimburse the workers at varying levels of pay depending on the worker's qualifications.

It would be very difficult for 27,090 family members to determine the amount due to each individual hired by the family to provide respite services and to issue retroactive checks to each worker who provided the service since July 1, 2000, assuming that they could identify and locate each worker who provided the service since that time. In addition, it would be very difficult for regional centers to verify, within existing resources, that retroactive funds were distributed as intended to more than 27,000 voucher recipients to the individual workers. An effective date of March 1, 2001, for these increases would provide the rate increases intended by the legislature and eliminate the problems the vouchered family members would face with an effective date which is eight months earlier.

AUTHORITY AND REFERENCE

Authority : Sections 4691 and 4691.5, Welfare and Institutions Code.

Reference : Sections 4691 and 4691.5, Welfare and Institutions Code; Budget Act of 2000-01, Item 4300-101-0001.

INFORMATIVE DIGEST

Title 17, California Code of Regulations (CCR), Division 2, Chapter 3: Community Services, SubChapter 7: Nonresidential Service, Vendor Rate-Setting Provisions

The Department proposes to improve the availability and quality of care by increasing the wages and benefits for respite care workers and staff who provide supplemental services for non-mobile consumers in day programs.

Section 57310 (b)(3) - Method of Reimbursement for Voucher Services

The Department proposes to increase the maximum reimbursement rate for family members providing respite services to \$8.57 per hour, including benefits, effective March 1, 2001. The previous rate of \$7.79 per hour included a base wage of \$6.57 per hour and a benefit allowance of 18.5 %, or \$1.21 per hour. The 18.5% benefit factor was taken from the average percentage of benefits being paid by day programs, based on actual 1989/90 cost statements. In this proposal, the Department would increase the base rate by 10%, to \$7.22 per hour, and apply the same benefit factor of 18.5% for a total wage and benefit rate of \$8.57 per hour.

Section 57332 (c)(3)(A) - Maximum Rates for Reimbursement for Non-Residential Services - In-Home Respite Worker

The Department proposes to increase the maximum reimbursement rate for in-home respite workers to \$8.57 per hour, including benefits, effective July 1, 2000. The previous rate of \$7.79 per hour included a base wage of \$6.57 per hour and a benefit allowance of 18.5 %, or \$1.21 per hour. The 18.5% benefit factor was taken from the average percentage of benefits being paid by day programs, based on actual 1989/90 cost statements. In this proposal, the Department would increase the base rate by 10%, to \$7.22 per hour, and apply the same benefit factor of 18.5% for a total wage and benefit rate of \$8.57 per hour.

57332 (c)(9)(A)(2)(a) - Maximum Rates for Reimbursement for Non-Residential Services - Respite Facility

The Department proposes to increase the maximum reimbursement rate for in-home respite workers to \$8.57 per hour, including benefits, effective July 1, 2000. The previous rate of \$7.79 per hour included a base wage of \$6.57 per hour and a benefit allowance of 18.5 %, or \$1.21 per hour. The 18.5% benefit factor was taken from the average percentage of benefits being paid by day programs, based on actual 1989/90 cost statements. In this proposal, the Department would increase the base rate by 10%, to \$7.22 per hour, and apply the same benefit factor of 18.5% for a total wage and benefit rate of \$8.57 per hour. As required by the Budget Act of 2000-01, the rate would become effective retroactive to July 1, 2000.

Section 57530(b) - Non-Mobile Supplemental Rate

The Department proposes to increase the reimbursement rate for staff who provide assistance to non-mobile consumers in community-based day programs. The previous rate was based on the minimum wage plus 20% for benefits. The Department proposes to increase the minimum wage portion by 10%, as required by the Budget Act of 2000, and then apply the 20% benefit factor to that amount. Per the Budget Act, the rate would become effective retroactive to July 1, 2000. To address future increases in the minimum wage, the Department proposes to specify the rate of \$.76 per consumer per hour, or one-tenth of the prevailing minimum wage, as mandated by State and Federal laws, plus fringe benefits at 20% of the prevailing minimum wage, whichever is greater.

Section 57530(b)(1) - Non-Mobile Supplemental Rate

The Department proposes to delete the language specifying how the rate is to be calculated. This language is not longer required because the rate is specified in (b) above.

SMALL BUSINESS DETERMINATION

The Department has determined that the proposed regulations will affect small business. The regulations have, therefore, been drafted in plain English.

LOCAL MANDATE AND FISCAL IMPACT DETERMINATIONS

The Department has determined that the proposed regulatory action does not impose: 1) a mandate on local agencies or school districts, 2) costs to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630, or 3) other nondiscretionary costs or savings imposed on local agencies. The Department has determined that the proposed regulatory action will cost approximately \$300,000 in Fiscal Year 2000-2001, but that the Department will be able to absorb these costs within its existing budget and resources.

ECONOMIC IMPACT AND BUSINESS ASSESSMENT

The proposed action will not: a) create new jobs within the State of California, b) help in the creation of new businesses within the State of California, nor c) cause the expansion of businesses currently doing business within the State of California. The Department has determined that the proposed regulations will not have: a) a significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states, b) a significant potential cost impact on private persons or directly affected businesses, nor c) a significant effect on housing costs.